

Attorney Docket No.: RTS-0236
Inventors: Ward and Watt
Serial No.: 10/007,078
Filing Date: November 8, 2001
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In the Claims:

Please cancel claim 25.

REMARKS

Claims 1-2, 4-15 and 20-27 are pending in this application. Claim 25 has been canceled. No new matter has been added by this amendment. Reconsideration is respectfully requested in view of these amendments and the following remarks.

Claim 25 of the present application has been subjected to a Restriction Requirement under 35 U.S.C. §121 and 37 C.F.R. §1.141 by the Examiner in this case. The Examiner suggests that claim 25 specifically claims antisense sequences which are structurally independent and distinct even though they each target the same gene. As the sequences are distinct and each sequence targets different and specific regions of the same gene. The Examiner suggests that a search of all of the antisense sequences claimed in claim 25 presents an undue burden on the Patent and Trademark Office. The Examiner has required Applicants to elect one claimed antisense oligonucleotide sequence from claim 25 to be searched with the claimed invention. Applicants respectfully traverse this restriction requirement.

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MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

As acknowledged by the Examiner, all of the identified sequences of claim 25 share the ability to modulate a common structure, namely EIF2C1. Thus, Applicants respectfully disagree with the Examiner's suggestion that the SEQ ID NOs recited in claim 25 are distinct as being novel and unobvious over each other as required by MPEP § 802.01. Accordingly, reconsideration and withdrawal of the election requirement of the sequences recited in claim 25 is respectfully requested.

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However, in an earnest effort to be completely responsive and facilitate prosecution of this application, Applicants have canceled claim 25, thus rendering the restriction requirement moot.

Respectfully submitted,

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